



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

GROVER SELLERS

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ATTORNEY GENERAL

Honorable Tom R. Mears
County Attorney
Coryell County
Gatesville, Texas

Dear Sir:

Opinion No. 0-6178

Re: Right to withhold transportation aid under the Rural Aid Act, and related question.

We have your letter of recent date to which you attached a letter from the Trustees of the Evant Independent School District setting out the circumstances of a disagreement between the Evant Trustees and the County Board over the most economical routing of a bus to the Evant School. By reason of this disagreement the Trustees of the Evant School have requested an opinion on the following questions:

"1. If the Ireland-Evant bus goes ahead and runs over the public county roads through Purmela and picks up no pupils in Purmela could the county board lawfully withhold the Evant District's transportation money?

"2. If the Ireland-Evant bus went through Purmela against County Board's approval and picked up only legal approved transfers to Evant could the County Board lawfully withhold Evant District's transportation money?"

In Article 5, Chapter 373, Acts of the Forty-eighth Legislature, which is the Rural Aid Act, it is provided:

"The County Superintendent and the County School Board of the several counties of this State subject to the approval of the State Superintendent of Public Instruction are hereby authorized to annually set up the most economical system of transportation possible for the purpose of transporting both grade and high school pupils from their districts, and within their districts. The County shall be regarded as the unit and the warrant made payable to the

County Board Transportation Fund, on the total transportation earned within the County not to exceed the total approved cost thereof and the County Board of Education shall distribute the funds equitably to the Districts operating such transportation system not to exceed the actual approved cost of any one (1) bus so operated...."

It is to be noted that the Act provides that the County Superintendent and County School Board set up the most economical system of transportation possible, subject, however, to the approval of the State Superintendent of Public Instruction. The action of the County Superintendent and County School Board is not final since the State Superintendent must approve the route.

We have discussed this matter with a member of the State Department of Education and have been advised that the Ireland-Evant bus route has not been approved by that department. They also advised us that applications for transportation aid funds, as provided in the Rural Aid Act, are denied when the transportation involved is not over an approved route. Therefore, the transportation money is withheld by the State Department when the route on which the application is based is not an approved route.

In view of the fact that the State Superintendent must approve the bus route before transportation aid will be available, it is suggested that the Evant School Trustees, the County Superintendent and the County School Board counsel with the State Superintendent of Public Instruction in an effort to determine the most economical route for the Ireland-Evant School bus. A discussion and review of all the facts in such a conference should bring about an amicable settlement of the differences between the officials involved.

Trusting this will be of assistance to you, we are

Yours very truly
ATTORNEY GENERAL OF TEXAS

By s/Jack W. Rowland
Jack W. Rowland
Assistant

JWR:BT:wc

APPROVED OCT 4, 1944
s/Grover Sellers
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By s/BWB Chairman